

EXHIBIT 51

Hunters Capital, LLC v. City of Seattle

Mayor Jenny A. Durkan

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

HUNTERS CAPITAL, LLC, et al.,)	
)	
Plaintiff,)	
)	
vs.)	No. 20-cv-00983
)	
CITY OF SEATTLE,)	
)	
Defendant.)	

VIDEOTAPED VIDEOCONFERENCE DEPOSITION
UPON ORAL EXAMINATION OF
MAYOR JENNY A. DURKAN

Seattle, Washington

(All participants appeared via videoconference.)

DATE TAKEN: DECEMBER 8, 2021

REPORTED BY: CINDY M. KOCH, RPR, CRR, CCR #2357

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1 regular meetings related to the pandemic, but I'd have
2 to look at my calendar. I think that the -- the -- you
3 know, the beginning was just so intense and required so
4 much immediate decision-making with the right people in
5 the room, and with him being on the point with regards
6 to trying to -- testing and getting our first
7 responders, keeping them safe, going into the senior
8 homes and the like, Chief Scoggins became one of our key
9 people in the pandemic response.

10 Q. So when you say early in the pandemic response,
11 are you talking about like March and April of 2020?

12 A. Right. Beginning -- you know, we learned at
13 the end of February, beginning immediately in March we
14 pivoted to really having to change not just how we
15 responded as government, but we were -- we had -- there
16 was no guidebook, and we were without any ability to
17 understand what the scope of the disease was, the
18 modelers at that point were very -- they had done
19 modeling.

20 And we -- the forecast was that within six
21 weeks we would probably have as many as 70,000 cases and
22 thousands of deaths. That obviously would have led to
23 complete collapse of our healthcare system, as well as
24 just -- it affected every part of our city.

25 We saw immediately, you know, the huge economic

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1 impacts, and we were fighting against the health
2 impacts. We had no access to testing, and so we really
3 were trying to build a system to respond to that, and --
4 and we used our fire department and our medics as the
5 first line.

6 Q. In June of 2020, do you -- would you have ever
7 texted Chief Scoggins in a communication that was just
8 you and Chief Scoggins?

9 A. Would I ever have done it? It is -- I -- I
10 would say that, again, you know, the practice would be
11 to not communicate things of substance by text, or he
12 would include someone.

13 But it's -- and -- and we were, you know,
14 talking and in a room, and he would call me through
15 those period of times, but it's possible that there
16 could have been some text messages, yes.

17 Q. Some text messages that would have been just
18 you and Chief Scoggins on the text?

19 A. Yeah. And again, just to emphasize, I mean, I
20 think that, you know, as you -- and you've seen my
21 calendar and the like, and -- and Chief Scoggins and I
22 were again in a room, our first line would be to talk to
23 each other or talk to each other on the phone.

24 He would usually include other people on the
25 text messages. But I can't exclude the possibility that

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1 by the City or people who were under your direction that
2 did not meet with your approval?

3 A. I -- I do think, in fairness, you'd have to be
4 a little more specific on what you're asking. Because
5 obviously the -- it was all hands on deck with City
6 government, and so you may be aware of things. So if
7 you could narrow it, that would be helpful.

8 Q. Well, we'll get into some specifics later, but
9 let me ask you about some specific people.

10 Do you recall anything that Sam Zimbabwe or the
11 Department of Transportation did with regard to CHOP
12 that was contrary to your policies as you had stated
13 them?

14 MR. HARRIGAN: Objection. Vague.

15 Go ahead and answer.

16 A. So I'm not sure which policies that you're
17 talking about, but I will say this about Sam Zimbabwe
18 and the Seattle Department of Transportation, is that we
19 were dealing with an incredibly dynamic situation on the
20 ground that required all of our departments to pivot in
21 ways that they had not done before.

22 And that was after a period of time where we
23 had come out of this pandemic, the Seattle Department of
24 Transportation had been inordinately strained because,
25 unlike other departments, most of -- many of their

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1 workers could not work from home. And so they were on
2 the front lines every day during the pandemic, which
3 took an incredible toll on those workers and on the
4 department.

5 Then we had the West Seattle Bridge issue,
6 which put just another huge weight on their shoulder.
7 And so I will say that, you know, I think that the work
8 that the -- Sam Zimbabwe did and that the Seattle
9 Department of Transportation was always directed at
10 trying to help the residents of Seattle and the
11 businesses of Seattle.

12 And that was with regards to the West Seattle
13 Bridge or the other kind of calamities we had during
14 this period of time, and I think it was true on Capitol
15 Hill, that they were adjusting too, and trying to work
16 with other departments to really address what was
17 happening in and around not just Cal Anderson, but in
18 other parts of the city.

19 BY MR. WEAVER:

20 Q. So are you aware of anything they did in the
21 Capitol Hill area, meaning Department of Transportation,
22 in June of 2020 that you -- you disagreed with?

23 MR. HARRIGAN: Objection. Vague.

24 A. And I'm -- I really -- I think you're -- there
25 may be something that you have in mind, and if you want

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1 and then to reconfigure so that we could have better and
2 more safe access to the area.

3 That was an evolving kind of dynamic situation
4 itself that -- that on a daily basis, but I think
5 everyone's goal from the beginning was to reduce the
6 number of barriers, to reduce the profile of the area
7 where people were in the protests, and to provide access
8 to that area for businesses, for residents, for first
9 responders and the like.

10 So it was a -- you know, each day I think they
11 had to adjust what they were doing, and it had to be
12 informed by what the ground truth was at the time in
13 that area.

14 Q. Okay. So you're talking about the changes and
15 the changes in approaches and barriers being moved.
16 What I'm trying to ask about is what your awareness was
17 in real time of that, from June 8th to July 1st, as far
18 as what the Department of Transportation was doing in
19 that area?

20 MR. HARRIGAN: Objection. Vague.

21 A. So during that period of time, again, it would
22 vary on every day how much I was in- -- I was informed
23 of what they were doing that specific day. But I
24 absolutely understood and knew what the overall goals
25 were, and -- and was -- was aware of at different times

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1 Go ahead.

2 A. Yeah, I think that, you know, as you know, that
3 the -- there is -- as I said, there's, you know, a First
4 Amendment right in America to protest, and cities can
5 sometimes regulate that, but there has been any number
6 of free speeches incidents in the last four years, some
7 that are planned, some that are unplanned.

8 And, you know, in the context you'll -- you
9 know, as you know, during this period of time, there was
10 also a federal court action as to what the contours were
11 for protests and their right to protest, and the City's
12 ability to regulate that.

13 So it's a pretty complicated area of the law.
14 And again, you know, it's part of who we are as a
15 country that we have a right to protest our government
16 and to exercise our First Amendment rights, that the
17 City has to honor and respect that.

18 And at the same time, we had to balance those
19 interests against what are the interests that we can do
20 that in a way that also maintains, you know, safety for
21 those protesters, safety for the businesses and
22 residents, and -- and tries to really balance those on
23 any given day to advance those interests.

24 And that's what we were doing on a daily basis,
25 really trying to see how do we, as a City, balance those

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1 interests and exercise our judgment in a way that can
2 address those competing interests.

3 BY MR. WEAVER:

4 Q. So again, I'm not asking for a legal
5 conclusion. I'm asking for your understanding of what
6 the City had to do to protect First Amendment rights
7 during CHOP.

8 MR. HARRIGAN: Same objection.

9 A. And I'm not -- I'm not sure what you're -- I
10 don't know what you're asking. You have a right to
11 protest, and -- and it's happened, like I said, you
12 know, and sometimes planned and sometimes unplanned.

13 You know, before the pandemic we had a protest
14 that appeared suddenly on 2nd Avenue, and they set up
15 two-story teepees and chained themselves to it.
16 Obviously we have to try to clear the area, get the
17 people involved. It took a long period of time to do it
18 safely.

19 And so the City has to, you know, address the
20 fact that there will be protests, and when we have that,
21 we have to determine, how do we accommodate what's
22 legitimate and peaceful protest, and at the same time
23 protect other people's rights of access, protect public
24 safety.

25 And so depending on what the protest itself is,

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1 A. So I think you have to -- I would phrase it
2 maybe just a little bit differently. You had the First
3 Amendment rights that we have to honor and protect, but
4 at the same time, we had a very fluid situation, where
5 we had to be gauging a range of issues in and around the
6 Capitol Hill area.

7 For example, we talked about before, that
8 before the -- the date of June 8th, there was a person
9 who had drove into a group of protesters right in that
10 same area, in the Cal Anderson area, that resulted in a
11 shooting.

12 And so -- and we saw that happen in cities
13 across the country where there was this area. So we had
14 to take some steps then to kind of balance those
15 interests.

16 We also were in the middle of a global pandemic
17 that we -- you know, every day we'd be consulting with
18 public health on a range of issues, including, you know,
19 what steps, if any, we should be taking to make sure
20 that, given that there are protests occurring in our
21 city, what steps should we do to keep them safe and keep
22 the other businesses and residents safe? And so there
23 was a range of things.

24 If there's a particular topic you want to talk
25 about, I'd be happy to kind of tell you what at least my

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1 A. No, I don't recall the specific date.
2 Obviously we were working not just with what the
3 operational restraints were, you know, the city
4 attorney's office had to be advised.

5 We also were the subject to, you know, ongoing
6 federal court action and oversight with regards to
7 police actions. And so all of those things had to be
8 taken into consideration.

9 And I -- I don't remember the exact date that
10 it was determined that the best way forward to enable
11 the police and the other city departments to actually be
12 successful on July 1st was that we had to have an
13 emergency order in place, but it was determined that, in
14 order for us not just to clear the area, but then set up
15 a perimeter that we could keep -- maintain required an
16 emergency order.

17 Q. Do you know if it was a matter of weeks before
18 the order was issued, or days before the order was
19 issued, that that decision was made?

20 MR. HARRIGAN: Objection. Vague.

21 A. Again, I don't know if the -- the exact date
22 that it was determined an emergency order would be used.
23 You know, backing the clock up again, you know, we
24 are -- when the pandemic came, I had to issue an
25 emergency order because it was determined that to -- for

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1 the City to take the steps it needed to do, and so you
2 had the governor, the county executive, and myself issue
3 emergency orders.

4 And under that emergency order, it vests the
5 department and the City with powers to be able to
6 respond to crises that they might not have. And so I
7 can't tell you the date that this happened.

8 It was informed by previous emergency orders
9 that the City has done over time in response to other,
10 you know, events. But again, I think the really
11 important thing is, the emergency order itself was the
12 culmination of a period of weeks where the operational
13 departments, particularly the police department, were
14 working on a plan that we thought we could be successful
15 to clear protesters from that area, restore order, and
16 maintain a perimeter to allow us to do that kind of
17 work.

18 BY MR. WEAVER:

19 Q. I'd like to go to Page 2 of this order,
20 Exhibit 1. And there is a -- it looks like the third
21 whereas. And then there's some bullet points after
22 that, that go to the end of the page and actually
23 continue on to the next page.

24 But in the first bullet point under that
25 paragraph, there is a June 20, 2020, date regarding

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1 A. Yeah, I'm not sure -- I -- I've not -- I'm
2 reading this again for the first time in a long time.
3 If there's -- I have not gone back to compare what I
4 know today with what I knew then with what we knew
5 before.

6 But our purpose at this point, like I said
7 before, is, from the very beginning, when the police
8 department made the decision to temporarily leave the
9 East Precinct, the intention was to return right away.
10 That was not able to happen.

11 And so then, operationally, we had to shift to
12 how do we then have a successful operation that can do
13 that in a time when the protests themselves were against
14 the police, and the police themselves' presence
15 escalated behavior.

16 So we had to de-escalate the situation, balance
17 the public interest of, one, protecting business and
18 residents; two, protecting the First Amendment rights of
19 people; protecting the first responders, and do it all
20 during a global pandemic, at the same time we were
21 balancing all the things that were happening in the
22 city.

23 So this emergency order really was intended to
24 finally be the culmination of all the steps we took that
25 we thought were the best way, exercising our best

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1 Regularly that would include Chief Best and
2 Chief Scoggins, but really, really important we thought
3 that there would be this information going to the public
4 on where we were, what we were doing, and why we were
5 doing it.

6 Q. Why didn't you say, in any of those previous
7 press events, that it was time for people to go home?

8 A. I'd have to look at all the previous ones. I
9 may have said things like that, or what our expectations
10 were. But again, it was an evolutionary process. You
11 know, you had thousands of people protesting for Black
12 lives against the police.

13 And it wasn't just here in Seattle. It was in
14 every major city in America. And we saw in other cities
15 those protests devolve into nightly violence and
16 conflict, you know, whether it was Portland. They had
17 shootings in Louisville.

18 I was talking to mayors in Atlanta, Louisville,
19 Los Angeles, to compare notes on what were people doing
20 and how do we address this. And for us in Seattle, what
21 we really wanted to do, again, was balance those
22 competing interests.

23 It was important that people protest the -- the
24 killing of George Floyd. That was part of our national
25 dialogue. But at the same time, in -- in ensuring that

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1 people in the area; is that right?

2 A. I think that's fair to say.

3 Q. Okay. And you were aware that there were --
4 there had been some disruptions to garbage service in
5 the area for some people; is that right?

6 A. I think that -- correct.

7 Q. Okay. And at least you heard that some
8 businesses were complaining that they were losing
9 revenues because of what was going on in the area at
10 that time?

11 MR. HARRIGAN: Objection. Vague.

12 A. My best recollection is a little bit different
13 than that, is, remember, we're still in the governor's
14 stay home order and most businesses were closed, and
15 that we were getting to that point where we were
16 thinking about, how do we reopen the economy, and the
17 same businesses that had suffered, you know, having to
18 shut down during the pandemic was just so, so hard on
19 every business, not just on Capitol Hill, but in our
20 city, and that it was really about how -- how are we
21 going to survive in this -- in this reopening phase and
22 what's the plan for us, is my recollection. But that
23 may not be, you know, what they felt they were saying.

24 BY MR. WEAVER:

25 Q. So do you recall hearing concerns that --

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1 One of the -- in that discussion, my
2 recollection is, is that someone in the command staff
3 with the chief said, you know, if we do that, then we
4 have to make sure that these other things happen. And
5 that would include removing all those things we talked
6 about before.

7 Obviously, if you're going to -- if you think
8 either the precinct could burn or you think the
9 protesters might overrun it, you can't have it have
10 guns, ammunition, confidential information, and the
11 like.

12 And remember, you know, place yourself in time.
13 It's hard to do. But we saw a police precinct burn in
14 Minneapolis. We saw other police precincts, you know,
15 be overrun or challenged.

16 And so that was something we actually had to
17 plan for. And my recollection is, is that the police
18 had raised this as something that they would have to do
19 in order to make sure that the precinct was secure.

20 And so I don't know if this is what
21 Mr. Sixkiller was doing, but it would have been my
22 expectation that in sharing their full plan with him or
23 our office, that they would have included that in their
24 planning.

25 Q. Do you recall in those discussions, either on

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1 June 7th or June 8th, discussions about whether the
2 police should evacuate, either partially or entirely
3 personnel from the East Precinct?

4 A. So on the 7th, we had a discussion related to
5 the precinct in my office with Chief Best and command
6 staff, where we were looking at what certain options
7 might be, but it was also for us to be briefed by the
8 FBI on what the threat to the East Precinct was or could
9 be.

10 And in that discussion, there was, you know --
11 there was discussions about if -- again, if the police
12 had to leave the precinct, as they did in some other
13 cities, or if the precinct, you know, was targeted with
14 fire or other things, what would have to happen.

15 And one of the things that was mentioned in
16 that is obviously, if you've got a police station that
17 has, you know, guns and ammunition and confidential
18 information and the like, you have to have a plan to
19 remove that, if you think that -- that any of those
20 incidents could occur and the police have to be out of
21 the precinct.

22 Q. Okay. Were there discussions on June 7th or
23 June 8th that you were involved in about whether to --
24 the police should evacuate personnel, either entirely or
25 in part from the East Precinct, in addition to other --

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1 out of that area, out of the Capitol Hill and Cal
2 Anderson area, without the assistance of the police
3 department.

4 In order for the police department to be able
5 to assist in that, a couple different things had to
6 happen. First, the reality was, these protests were
7 against the police, directly against the police, and
8 police presence in that area led to escalation of events
9 and made it more volatile, not less volatile. So we had
10 to reduce the profile as much as we could, and the
11 number of people, until there was a time when Seattle
12 police could lead the event.

13 Second, we need to de-escalate what was
14 happening in there, period, and get some kind of statis
15 involved, and then move people. In a sense maintain,
16 you know, the s-t-a-t-i-s, not u-s.

17 So -- so this reflects our reality of, okay, we
18 can't do this overnight. It is incredibly dynamic and
19 complicated. And even when we got to the point that we
20 did do it, you know, Mr. Weaver, I can't tell you enough
21 how complicated that was to marshal that many police
22 officers without the benefit that we normally would have
23 of mutual aid of other police departments, because other
24 police departments did not want to come assist, having
25 to take those people off -- off their regular rotation

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1 to get them trained on Judge Jones' order and what their
2 plan would be, to have the Seattle Department of
3 Transportation be ready with heavy machinery and
4 employees, and get them scheduled on a shift, to have
5 Parks employees the same, all in the middle of a global
6 pandemic, when our City workers were already stretched
7 really thin.

8 And so this was something that took
9 extraordinary amount of planning and preparation. And
10 leading up to that, before we could even begin that
11 operation, we had to have a place that would be
12 successful for the police to operate.

13 And that meant trying to de-escalate, have as
14 few people there as possible, and show that we, as the
15 City, were listening to the protests so that they
16 wouldn't escalate for other reasons.

17 And again, against the backdrop of -- I was
18 really very fearful, as mayor, that the posture that the
19 president was taking during this period of time, and
20 threatening to send in troops and agents itself was
21 going to escalate the situation.

22 So this -- this took an extraordinary amount of
23 coordination, and I think this document reflects from
24 the earliest days, we were really coordinating across
25 departments to see how we could get through each step.

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1 BY MR. WEAVER:

2 Q. So you do remember referring to the summer of
3 love, or the potential for summer of love in Seattle?

4 A. Again, I think my answer was, it's a little
5 more complete that -- that he asked how long is it going
6 to happen? I said I don't know. I then used the really
7 inartful phrase, "could have a summer of love," to try
8 to depict that it's not going to be what the president
9 has represented it as, is -- is anarchy and fires and
10 the like, but then also immediately said, but we also
11 know we have these duties with regard to public safety
12 that we take very seriously.

13 Q. So do you believe in the totality of your
14 comments during that interview you conveyed to the
15 public, that you were going to move protesters out soon?

16 MR. HARRIGAN: Object to the form.

17 A. I think if you look at -- again, we were not,
18 at that juncture, able to say we could do that because
19 the truth was, we could not do that until the Seattle
20 Police Department could lead an operation. Because we
21 couldn't have an operation that successfully would reach
22 that goal until they could.

23 And again, you know, until this time, as again,
24 it's a phased approach, we knew we had to try to
25 de-escalate and calm things down. We then had to try to

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1 shrink the number of people who were there at the same
2 time that the Seattle Police Department had to come up
3 with a plan that they thought could work, because we
4 knew from experience, watching that when the police
5 entered that area, it could escalate things immediately
6 because they were protests against the police.

7 And we had just finished -- remember, this came
8 about because of a nightly skirmish at that police line
9 between police and protesters. And so we had to be
10 realistic, and I had to really rely on the judgments of
11 Chief Best and her command staff on how and when they
12 could be ready. Because it also involves so many other
13 departments. So no, at that time, I could not say we
14 would move people out quickly because we had to first
15 make sure we could do that.

16 BY MR. WEAVER:

17 Q. Do you recall giving any indication, in that
18 interview or any other interview during that first week,
19 week and a half of CHOP, that there would be a deadline
20 by which the area would be cleared out?

21 MR. HARRIGAN: Objection to the form.

22 A. No. Because it -- and I think, as we've said
23 here today, we couldn't set a deadline. I think it's
24 really important that, number one, if you set a deadline
25 and say, everyone out by X date or we're going to push

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1 you out, experience would tell us, you're going to
2 invite more people to come because that is typically
3 what happens. It's what happened in Portland night
4 after night after night during the same period of time.

5 And so what you had to do, we thought, using
6 our best judgment as a City, is to take a phased
7 approach that was based on the reality of the
8 circumstances.

9 So in the beginning, when the protesters stayed
10 in the Capitol Hill area, we first had to make sure that
11 we were protecting the safety of the protesters,
12 balancing the public health interest, also protecting
13 the public safety and benefits for the residents and
14 businesses, while we were thinking, how do we, you know,
15 change the profile?

16 So one of the first things -- one of the other
17 exhibits you showed me, you know, SDOT trying to go in
18 and remove all the barriers we could, the bike racks,
19 the this, the that, so that we could reduce the ability
20 of those to be -- so again, a really phased approach,
21 make sure that we could de-escalate it as much as
22 possible, really be attentive to the public health and
23 safety needs, and then work with as many community-based
24 organizations and City people as we could, to get in
25 there to try to address and get people out of the park.

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1 At the same time the Seattle Police Department
2 has to come up with a plan that will work, and we have
3 to rally all those other departments around it.

4 BY MR. WEAVER:

5 Q. As of -- when do you understand the Seattle
6 Police Department came up with its plan to move people
7 out of the area?

8 A. So the final plan was shortly before July 1. I
9 think one of those other exhibits you showed me, you
10 know, the first briefing they were giving me was right
11 around June 20th, which indicates, you know, they had to
12 be working for days and days before that.

13 And so that -- that was the first -- and it was
14 iterative because we had to both assess not only what
15 the department could do, but it changed. It changed,
16 one, because Judge Jones entered his order on what --
17 what tools and procedures you could use if there were
18 protesters, and so they had to train on what the
19 contours of that order were.

20 You had to take people off their shifts in
21 order to train them, and then they had to then -- when
22 they came up with the actual operational plan, it's my
23 understanding -- I didn't participate in it. You know,
24 they actually go off-site and plan who's the first line?
25 Who's the second line? What do the next ones do?

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1 And then they have to coordinate with the
2 Seattle Department of Transportation to bring in dozens
3 of trucks and employees, the Parks Department, the
4 Seattle Public Utilities Department.

5 You know, it was a monumental undertaking that
6 was -- you know, at various stages, they were planning
7 the various contours of it, and then they had to look at
8 it to say, will this work? Will this not work? How do
9 we address this, how do we address that.

10 Q. You know, I think you've made clear in more
11 than one -- more than one answer that it was
12 complicated.

13 When do you recall first hearing a plan from
14 the Seattle Police Department as to how they were going
15 to go ahead and move people out? If you don't remember,
16 you can say you don't remember.

17 A. I don't remember the first day that there was a
18 plan, but from the very beginning, Seattle Police
19 Department was assessing what was happening on the
20 ground and whether they thought it would be safe for
21 them to go into the East Precinct. And that was
22 connected with obviously you can't return to the East
23 Precinct unless you have a plan for the area.

24 And so those -- those discussions literally
25 started on the 8th, you know, not in great detail, but

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1 then, as plans developed, and I think the exhibit you
2 showed me before is, you know, on June 20, they were
3 going to brief me on where they were on that planning.

4 Q. But I think, when I asked you about that, you
5 don't even recall whether there was actually a briefing
6 on that day; is that correct?

7 A. I don't know if it was on that day, but I do
8 know that we had the contours of what we were looking
9 at, and, you know, Chief Best had -- had, you know,
10 appropriately given it to her command staff to
11 operationalize, who were working with other departments.

12 And so I think that they were, themselves,
13 looking at, what do we do and how do we do it. And I --
14 you know, I think that the -- like I said, it's -- it
15 had to be informed by what was happening, you know, in
16 and around the area, and that the -- you know, the
17 police were always evaluating how they could enter that
18 area safely, including what time of day.

19 You know, it's -- you know, we -- the operation
20 was launched in the very early morning hours because
21 that's when Seattle Police Department determined how it
22 would be safer for them to do it. So all of those
23 things were factors they were looking at.

24 (Exhibit No. 13 marked.)

25 ////

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1 BY MR. WEAVER:

2 Q. Okay. I'd like you to look at Exhibit 13, and
3 it's been about an hour, but I'm getting close, I think,
4 to this section. Go ahead and take a look at that
5 email.

6 This is an email that Carmen Best forwarded to
7 you on June 18th. You responded on June 19th. It's
8 regarding what it would take to get the Seattle Police
9 Department into the East Precinct.

10 You respond that Chief Mahaffey's email looks
11 like a lot of must haves and no-how it's going to get
12 done. Your folks need to have part of their -- an
13 overall operation plan developed at the table with the
14 other departments.

15 Do you see that?

16 A. Yep, I do.

17 Q. Do you think they had an operational plan in
18 effect on June 19th?

19 A. No. I think that this was the contours of kind
20 of they were looking at overall what they would have to
21 accomplish for them to go into the precinct, was --
22 which was separate and apart. And I think that's what
23 my response is.

24 You know, we're going to need an overall plan.
25 And, you know, I would say, you know, now in -- in kind

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1 of -- having some period of time, you know, Chief
2 Mahaffey was dealing with a lot on his plate. And while
3 I will never minimize what was happening on Capitol
4 Hill, how important it was for us to have a plan, during
5 that period of time, the Seattle Police Department was,
6 you know, working significant hours' overtime in every
7 part of the city because we had so many different types
8 of protests against the police, and their people had
9 been on that line for so long. They were really
10 strapped for just the -- the officers and their service.

11 And so I think that this email was perhaps too
12 terse, with that in mind, but I think it showed my
13 frustration that I really believed that a plan couldn't
14 just be that the tents need to be gone. It had to be,
15 how are we going to get the tents gone.

16 Q. You were frustrated because that had not
17 happened yet; there had not been a discussion of how to
18 get the tents gone?

19 A. No, I think there had been discussions, but it
20 appeared to me, from just what was forwarded, that there
21 had not been the same level of coordination with
22 everybody to do what we ended up doing on July 1st, you
23 know.

24 So I think that the -- again, you know, we've
25 talked very much about what a monumental type of

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1 operation, and how many departments this involves, and a
2 real plan was going to require all those things to be in
3 place, and so what was forwarded to me was, I don't
4 think, the -- an operational plan.

5 Q. Do you happen to know whether there were
6 operational plans that were being drafted, even as of
7 the week of June 22nd, that did not involve the police
8 being in support -- supporting the removal of people
9 from the area and barriers from the area?

10 MR. HARRIGAN: Object to the form. Lack of
11 foundation.

12 A. Removal of the barriers or removal of the --
13 the people, and just some or all? I'm not sure what
14 your question is. I'm sorry.

15 BY MR. WEAVER:

16 Q. Are you aware of whether there were operational
17 plans that were drafted the week of June 22nd that would
18 have other departments going into the area and removing
19 barriers or people that would not involve the Seattle
20 Police Department?

21 MR. HARRIGAN: Same objection.

22 A. So I'm -- I'm not sure if I understand your
23 question. Operational plan in terms of the final
24 operation to move everybody out, in my understanding, we
25 always believed was going to require involving Seattle

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1 Police Department. Up to that time, we were trying to
2 see what things we could do to improve the ability to be
3 successful; so for example, the removal of barriers, and
4 making a last effort to see how many barriers we could
5 get out of there before there was a police operation.

6 But obviously, you know, I can't tell you the
7 exact time when they started working on and planning the
8 operation we had on July 1st, but it -- it happened many
9 days before that because just the logistics of it
10 required that. But we also knew, in order for that to
11 be successful, that we had -- again, had to shrink the
12 profile as much as we could and have as many people out
13 of there as we could.

14 BY MR. WEAVER:

15 Q. Yeah, so it was complicated. I think we can
16 have a --

17 A. But, Mr. Weaver, I really think that's -- I
18 think that really does a disservice. It was more than
19 complicated. It was really significant in terms of not
20 just the organization and the number of people you had
21 to marshal, but you had to do it in the right timing.
22 You had to do it and train all these people without
23 people knowing that you were coming because having that
24 operation early in the morning was important to the
25 success.

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1 So I think it's -- it's more than just
2 complicated. It was -- really required us marshaling
3 resources from departments, and therefore taking them
4 away from their other responsibilities in order to be
5 successful in this. And I think, you know, if you look
6 at what happened on July 1st, it -- it showed that we
7 were able to do that successfully.

8 Q. Would you agree that one of the things that
9 made it more complicated was that the attempt to clear
10 out the area occurred three weeks after the barriers
11 were first repurposed on June 8th?

12 MR. HARRIGAN: Object to the form.

13 A. No, I -- I wouldn't agree with that at all.

14 MR. WEAVER: Okay. I think we can take a
15 break. Let's go off the record.

16 THE VIDEOGRAPHER: We are going off record.
17 Time now is 2:33 p.m.

18 (Recess from 2:33 p.m. to 2:46 p.m.)

19 THE VIDEOGRAPHER: Back on the record. It's
20 2:46 p.m.

21 E X A M I N A T I O N (Continuing)

22 BY MR. WEAVER:

23 Q. Mayor, I'd like to go back to Exhibit 1, which
24 is your emergency order that you signed on June 30,
25 2020.

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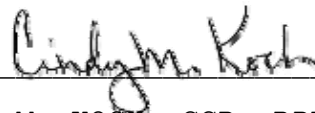
C E R T I F I C A T E

STATE OF WASHINGTON

COUNTY OF PIERCE

I, Cindy M. Koch, a Certified Court Reporter in
and for the State of Washington, do hereby certify that
the foregoing transcript of the deposition of Jenny A.
Durkan, having been duly sworn, on December 8, 2021, is
true and accurate to the best of my knowledge, skill and
ability.

IN WITNESS WHEREOF, I have hereunto set my hand
and seal this 29th day of December, 2021.



CINDY M. KOCH, CCR, RPR, CRR



My commission expires:

JUNE 9, 2022

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